9/21/83

CABINET COUNCIL ON MANAGEMENT AND ADMINISTRATION

SENIOR EXECUTIVE SERVICE PERFORMANCE BONUSES

I. Background

Under the provisions of the Civil Service Reform Act of 1978, there is a 50% restriction on the number of performance bonuses that may be awarded in each agency to career members of the Senior Executive Service. (Noncareer and limited members are not eligible for bonuses under law.) Since July 1980, however, the Congress in a series of appropriations act amendments has mandated a lower restriction. The restriction for Fiscal Year 1983 was 20%. For Fiscal Year 1984, no new appropriations restrictions have been placed by the Congress on performance bonuses, so that the number eligible will revert to 50%. The issue is whether OPM should impose restrictions other than the 50% eligibility in Title 5. Without regulations costs may be increased by 2 1/2 times. Also, without some limits Congress may impose further restrictions on its own, as it did in 1980, if there is adverse publicity on the amount of bonuses.

II. Current Status

Taking into account the provisions in law and OPM guidelines, agencies paid out in bonuses in FY 1982 a total of $6,847,809. The total career SES salary expenses at the end of the fiscal year were $350,736,625, so that the bonus payments were 1.95% of total salary expenses. The average bonus each fiscal year has been approximately 10% of base salary.

III. Options

A. Restrict by regulation the number eligible for bonuses to 20% of career positions, and keep the present restriction on bonus distribution.

- o Pro
  - Would carry over current (FY 1983) limitation in the law, and agencies would thus not have to change their systems.
  - Would keep government-wide costs the same.
  - Would cause least congressional concern.
- o Con
  - Would continue a restriction that has caused the most dissatisfaction among SES members.
  - Would likely raise strong opposition from executives and the Senior Executives Association, which still has a suit pending in court that OPM's action in 1980 reducing the congressional appropriations restriction of 25% to 20% was improper.

B. Restrict by regulation the number eligible for bonuses to 30% of career positions, and issue new guidance on distribution of bonuses.

- o Pro
  - Would give agencies considerable additional flexibility, while maintaining greater controls than the 50% limit.
  - Would hold cost increases to less than that allowed by a 50% limit.
  - Would probably satisfy congressional critics, while still allowing more to be eligible for bonuses.
- o Con
  - Would still lead to criticisms from executives who believe the 50% limit was a promise that should be fulfilled.
  - Could still lead to a cost increase of up to 50%, since 50% more executives would be eligible than under the 20% limit.

C. Provide no new limit in regulation (stay with the 50% limit in Title 5).

- o Pro
  - Would restore the original formula in the Civil Service Reform Act and be strongly supported by executives.
  - Would allow a wider distribution of bonuses in agencies and thus likely counter the complaint that they primarily go to individuals in higher level jobs.
- o Con
  - Would allow potential costs to go up 2 1/2 times compared with the costs under a 20% restriction if the average bonus payment remained the same. (The present SES career payroll is approximately $385 million. A bonus payout at the current 2% level would be $7.7 million. A payout 2 1/2 times greater would be $19.3 million, or a $11.6 million increase.)
  - Could lead to stronger congressional restrictions if opposition develops to higher costs and thus take away once more flexibility in operating the system.

D. Restrict, by regulation, total agency dollar payout to 2% of aggregate career SES payroll; stay with the 50% limit in title 5 on the number eligible to receive bonuses; continue restriction of 3% of salary as minimum individual bonus payout.

- o Pro
  - Would allow agencies the flexibility of implementing the 50% limit in title 5.
  - Would keep government-wide costs the same on a percentage basis since FY 1982 bonus payments were 1.95% of the career SES payroll.

- Con
  - Would mean decrease in average bonus payment if the number receiving bonuses went above 20% in an agency, since the same amount of money would have to be distributed to a larger population. Also, although the government-wide average was 1.95% of payroll, some agencies paid above the average and would have to cut back on payments.
  - Would likely have opposition from Senior Executives Association, which has indicated support for a 3% pool proposed by Senator Stevens.
  - Without any further limit on the number eligible, Congress might be concerned about half receiving bonuses.

E. Restrict, by regulation, total agency dollar payout to 3% of aggregate career SES payroll, increase minimum individual bonus payout to 5% of salary (in light of increased money in pool).

- Pro
  - Would allow some increase in overall dollar payments, but still considerably less than the 2 1/2 times if no dollar controls.
  - Would be in line with the pool available under the merit pay system for managers and supervisors outside the SES.
- Con
  - Would still mean possible 50% increase in overall dollar payments (about $3.9 million).
  - Some executives will probably oppose any dollar limitation, even if it is above current rate.
  - Congressional opponents of bonuses would complain of increased costs and too many eligible.

IV. Recommendation

In view of the current economic situation in the Government, OPM favors the 2% pool, option D. If budgetary considerations are not a major factor, OPM would be willing to support option E.